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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re DIANA D., a Person Coming Under the
Juvenile Court Law.

B217330

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK 70176)

Plaintiff and Respondent,

v.

KARLA D.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.

Marguerite D. Downing, Judge. Affirmed.

Andrea R. St. Julian, under appointment by the Court of Appeal, for Defendant
and Appellant.

Office of the Los Angeles County Counsel, James M. Owens, Assistant County
Counsel, and Timothy M. O’Crowley, Deputy County Counsel, for Plaintiff and
Respondent.

Karla D. (mother) appeals from a judgment of the juvenile court terminating her parental rights with respect to her daughter, Diana D. We affirm.

FACTS AND PROCEEDINGS BELOW

Because this is an unreported opinion and the parties are familiar with the facts, we will dispense with their recitation here. To the extent they are relevant, we discuss the facts in our resolution of the single issue on appeal, below.

In brief, Diana, born in 2006, was removed from mother's home in September 2007 and declared a dependent child of the court based on mother's history of substance abuse (methamphetamine and amphetamine). The court placed Diana in the home of her maternal grandmother. Mother was awarded family reunification services and allowed twice-weekly monitored visits with Diana, subsequently increased to thrice-weekly.

During the next 22 months mother was in and out of drug rehabilitation programs, failed to refrain from using cocaine and methamphetamine, and her visits with Diana slid from frequent and regular to occasional and sporadic.

In July 2009, the court terminated mother's parental rights and mother filed a timely appeal.

DISCUSSION

Welfare and Institutions Code section 366.26, subdivision (c)(1)(B)(i),¹ provides that the court has discretion not to terminate parental rights if "[t]he court finds a compelling reason for determining that termination would be detrimental to the child" because "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." Mother contends that under this statute, the court should have refrained from terminating her parental rights with Diana because she "maintain[ed] contact with her daughter throughout the dependency" and "continuing contact with [mother] would benefit Diana." We disagree.

¹ All statutory references are to the Welfare and Institutions Code.

Substantial evidence supports the court's finding that mother did not maintain regular visitation with Diana.

From September 2007, when the DCFS removed Diana from mother's home, until May 2008 mother had weekly visits with Diana. The DCFS worker reported that "[d]uring [these] visits Mother and Diana play and interact well. [¶] . . . [¶] Diana appears to be comfortable in the presence of Mother in that she is able to play with her, run around the room with her and sit next to her when Mother brings toys for Diana."

Beginning in May 2008, however, mother was often late to the visits and sometimes failed to show up at all. In December 2008, the DCFS worker reported that mother had only visited Diana twice in the past six months. The following month the worker reported that neither he nor the grandmother had heard from mother and her whereabouts were unknown. Mother had made no attempts to contact Diana in the past month. At the 12-month review hearing in January 2009, the court found mother had "not consistently nor regularly visited" Diana and terminated reunification services. Subsequent reports showed that mother visited Diana in February 2009 and sporadically after that. According to grandmother, mother "will visit for a couple of weekends and then disappears [sic] for a few weeks."

Contrary to mother's argument, merely "maintaining contact" with Diana does not trigger the exception to termination of parental rights under section 366.26, subdivision (c)(1)(B)(i). Rather, the court "shall terminate parental rights unless" it finds a "compelling reason" not to because the parent has "maintained *regular* visitation and contact with the child and the child would benefit from continuing the relationship." (Italics added.) Because mother did not satisfy the statute's "regular visitation" requirement, we need not consider the benefit-to-the-child provision.

DISPOSITION

The judgment is affirmed.

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ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.